

APPEAL NO. 020936
FILED MAY 31, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held March 13, 2002. The hearing officer resolved the issues before her by determining that the appellant (claimant) did not sustain a compensable injury on _____, and thus has no disability. The claimant appealed, challenging the determinations on sufficiency grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The claimant testified that as a result of being startled and jumping into a partition behind a cash register at work, she sustained a torn rotator cuff and several torn ligaments in her left shoulder. The medical records support the injury as described; however, the medical records cite the history of the mechanism of injury as told by the claimant as evidence that her injury was in the course and scope of employment. The carrier argued that the claimed mechanism of injury was unlikely and that the claimant had altered her story about the incident at work. The hearing officer is the sole judge of the weight and credibility to be given the evidence. Section 410.165(a). The hearing officer opined that she did not think the mechanism of injury as the claimant described could cause such a serious injury and that the claimant failed to meet her burden of proof. While the parties introduced conflicting evidence on the issue, upon our review of the record, we conclude that the hearing officer's determination that the claimant did not sustain a compensable injury is supported by the evidence, and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

As we affirm the injury determination, we likewise affirm the hearing officer's determination that the claimant did not have disability, because by definition, the claimant cannot have disability if she did not sustain a compensable injury. See Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge